

1 **Rule 4. Summons and Service**

2 (a) **Summons.**

3 (1) **Contents.** A summons must:

4 (A) name the court, the county, and the parties;

5 (B) be directed to the defendant;

6 (C) state the name and address of the plaintiff's attorney or—if
7 unrepresented—of the plaintiff;

8 (D) state the time within which the defendant must appear and
9 defend under Rule 12(a) or any other applicable rule or statute;

10 (E) notify the defendant that a failure to appear and defend will
11 result in a default judgment against the defendant for the relief demanded in the
12 complaint;

13 (F) be signed by the clerk;

14 (G) bear the court's seal; and

15 (H) comply with Rule 4.4(d)(2)(C) when service is made by
16 publication.

17 (2) **Amendments.** The court may permit a summons to be amended.

18 (b) **Issuance.** On or after filing a complaint, the plaintiff must present a
19 summons to the clerk for issuance under signature and seal. If a summons is
20 properly presented, the clerk must issue a summons under signature and seal to
21 the plaintiff for service on the defendant. A summons—or a copy of a summons that
22 is addressed to multiple defendants—must be issued for each defendant to be
23 served.

24 (c) **Service.**

1 (1) **In General.** Unless a defendant voluntarily appears, the plaintiff
2 is responsible for:

3 (A) obtaining a waiver of service under Rule 4.1, if applicable; or

4 (B) having the summons and complaint served under Rules 4.2,
5 4.3, or 4.4 within the time allowed by Rule 4(e).

6 (2) **Service With a Copy of the Complaint.** A summons must be
7 served with a copy of the complaint. The plaintiff must furnish the necessary copies
8 to the person who makes service.

9 (3) **By Whom.** The summons and complaint may be served by the
10 sheriff, or a deputy sheriff, of the county where the defendant is found or by any
11 person who is at least 18 years old and not a party to the action.

12 (4) **Cumulative Service Methods.** The methods of service provided
13 in Rules 4.2, 4.3, and 4.4 are cumulative and may be utilized with, after, or
14 independently of any other methods of service.

15 (d) **Proof of Service.** Unless a defendant voluntarily appears in the action
16 or waives or admits service, a plaintiff must file proof of service with the court
17 stating the date, place and manner of service no later than the time permitted for
18 the defendant to respond to the summons.

19 (1) **Service Within the United States.** Proof of service within
20 Nevada or within the United States must be made by affidavit from the person who
21 served the summons and complaint.

22 (2) **Service Outside the United States.** Service not within the
23 United States must be proved as follows:

1 (A) If made under Rule 4.3(b)(1)(A), as provided in the applicable
2 treaty or convention; or

3 (B) If made under Rule 4.3(b)(1)(B) or (C), by a receipt signed by
4 the addressee, or by other evidence satisfying the court that the summons and
5 complaint were delivered to the addressee.

6 (3) **Service By Publication.** If service is made by publication, a copy
7 of the publication must be attached to the proof of service and proof of service must
8 be made by affidavit from:

9 (A) the publisher or other designated employee having knowledge
10 of the publication; and

11 (B) if the summons and complaint were mailed to a person's last-
12 known address, the individual depositing the summons and complaint in the mail.

13 (4) **Amendments.** The court may permit proof of service to be
14 amended.

15 (5) **Failure to Make Proof of Service.** Failure to make proof of
16 service shall not affect the validity of the service.

17 (e) **Time Limit for Service.**

18 (1) **In General.** The summons and complaint must be served upon a
19 defendant no later than 120 days after the complaint is filed, unless the court
20 grants an extension of time under this rule.

21 (2) **Dismissal.** If service of the summons and complaint is not made
22 upon a defendant before the 120-day service period—or any extension thereof—
23 expires, the court shall dismiss the action, without prejudice, as to that defendant
24 upon motion or upon the court's own order to show cause with notice to the parties.

1 (3) **Timely Motion to Extend Time.** If a plaintiff files a motion for
2 an extension of time before the 120-day service period—or any extension thereof—
3 expires and shows that good cause exists for granting an extension of the service
4 period, the court shall extend the service period and set a reasonable date by which
5 service should be made.

6 (4) **Failure to Make Timely Motion to Extend Time.** If a plaintiff
7 files a motion for an extension of time after the 120-day service period—or any
8 extension thereof—expires, the court shall first determine whether good cause
9 exists for the plaintiff's failure to timely file the motion for an extension before the
10 court considers whether good cause exists for granting an extension of the service
11 period. If the plaintiff shows that good cause exists for the plaintiff's failure to
12 timely file the motion and for granting an extension of the service period, the court
13 shall extend the time for service and set a reasonable date by which service should
14 be made.

15
16 **ADVISORY COMMITTEE NOTE—2018 AMENDMENTS**

17 Rule 4 has been revised and reorganized, preserving the core of the prior
18 NRCP 4, and adopting provisions from the federal rule and Rules 4, 4.1, and 4.2 of
19 the Arizona Rule of Civil Procedure, and adding new provisions. Rule 4 is now
20 broken up into Rule 4, Summons and Service, Rule 4.1, Waiving Service, Rule 4.2,
21 Service Within Nevada, Rule 4.3, Service Outside Nevada, and Rule 4.4,
22 Alternative Service Methods. Where the existing NRCP 4 has not been changed or
23 has been only stylistically changed, regardless of whether the provision now resides
24 in Rule 4 or Rules 4.1 to 4.4, the Committee intends to preserve existing Nevada

1 case law interpreting those rules. As used in this rule, where appropriate the term
2 “person” is intended to include entities, such as trusts, associations, corporations,
3 and LLCs, as well as individuals. Personal service must be used under these rules,
4 unless otherwise specified.

5 Rule 4(a) and Rule 4(b) were switched in the federal rule and the Nevada rule
6 was conformed to the federal rule. Rule 4(a)(1), formerly NRCP 4(b), is in the
7 federal format, but is a restatement of the first sentence in the existing NRCP 4(b)
8 with stylistic changes. The second sentence of the existing NRCP 4(b) was moved
9 into Rule 4(l)(2), service by publication, with a cross-reference in Rule 4(a)(1)(H).
10 Rule 4(a)(2) is new and is adopted from the federal rule.

11 Rule 4(b) is adopted from the federal rule, with changes to accommodate
12 Nevada practice issuing a summons through an electronic filing system, and is a
13 stylistic restatement of the existing NRCP 4(a). As used in this rule, the term
14 “complaint” is intended to encompass any originating pleading or document for a
15 civil action, such as a complaint, a writ petition, an application, or something
16 similar. The term “plaintiff” is intended to mean the person filing the originating
17 pleading or document, and the term “defendant” is intended to mean the party to be
18 served.

19 The text of Rule 4(c)(1) was adopted from the federal rule, but the rule was
20 reorganized into Rule 4(c)(1) and (2) to enable breaking this rule up among several
21 sections. Rule 4(c)(1) now provides a roadmap for the use of Rules 4.1 through 4.4.
22 Rule 4(c)(3) is a stylistic restatement of the existing NRCP 4(c). Rule 4(c)(4) is
23 carried forward from the last sentence of the prior NRCP 4(e)(2). The existing
24 NRCP 4(c)’s statement regarding subpoenas was deleted as superfluous.

1 The former NRCP 4(f) is deleted as superfluous. NRS 14.065 provides for
2 long-arm jurisdiction and Rule 4(i) and (j) govern service outside of Nevada. That a
3 voluntary appearance is the equivalent of personal service is captured in Rules
4 4(c)(1) and (n), which state that, unless the defendant voluntarily appears, the
5 plaintiff is responsible for serving a summons and the compliant or obtaining a
6 waiver, and that a proof of service is needed unless the defendant waives or admits
7 service or voluntarily appears. *See also Deegan v. Deegan*, 22 Nev. 185, 196-97, 37
8 P. 360, 361 (1894) (“[S]ervice of a [summons] is only necessary to bring the party
9 into court. If he voluntarily appears without it, such service is unnecessary.”).

10 Rule 4(d) replaces the prior NRCP 4(g). Rule 4(d)(1) and (3) are stylistic
11 changes from the prior provisions in NRCP 4(g)(1)-(3). While the prior NRCP
12 4(g)(4) was omitted, admission of service is referenced in Rule 4(d) and a written
13 admission of service will prove service. Rule 4(d)(2) was adopted from FRCP 4(l)(2)
14 for international service. Rule 4(d)(4) was also adopted from FRCP 4(l)(3).

15 Rule 4(e) clarifies the former NRCP 4(i). Rule 4(e)(1) makes clear that the
16 120-day time period is generally applicable to all civil actions. The federal rule
17 exempting foreign service from this timeline is not adopted. Plaintiffs needing to
18 serve defendants in foreign countries may move to extend the time in which to
19 serve those parties and the court can extend the deadline and set a reasonable
20 deadline for service. Rule 4(e)(2) makes clear that, if it acts on its own, the district
21 court must give notice to the parties and allow them an opportunity to be heard
22 before dismissing an action. Rule 4(e) was revised to preserve the case law in
23 *Scrimmer v. Eighth Judicial Dist. Court*, 116 Nev. 507, 998 P.2d 1190 (2000) and
24 *Saavedra-Sandoval v. Wal-Mart Stores*, 126 Nev. 592, 245 P.3d 1198 (2010), but to

1 clarify the procedure when an untimely motion to extend the service deadline is
2 made.

3
4 **Rule 4.1. Waiving Service.**

5 (a) **Requesting a Waiver.** An individual, entity, or association that is
6 subject to service under Rule 4.2(a), Rule 4.2(c)(1) or (2), Rule 4.3(a)(1), Rule
7 4.3(a)(3)(A), or Rule 4.3(b)(1) or (3) has a duty to avoid unnecessary expenses of
8 serving the summons. The plaintiff may notify such a defendant that an action has
9 been commenced and request that the defendant waive service of a summons. The
10 notice and request must:

11 (1) be in writing and be addressed:

12 (A) to the individual defendant; or

13 (B) for an entity or association, to a person designated by Rule
14 4.2(c)(1);

15 (2) name the court where the complaint was filed;

16 (3) be accompanied by a copy of the complaint, two copies of the waiver
17 form, Form 2 in the Appendix of Forms at the end of these Rules, and a prepaid
18 means for returning the form;

19 (4) inform the defendant, using the waiver form, of the consequences of
20 waiving and not waiving service;

21 (5) state the date when the request is sent;

22 (6) give the defendant a reasonable time of at least 30 days after the
23 request was sent—or at least 60 days if sent to the defendant outside the United
24 States—to return the waiver; and

1 (7) be sent by first-class mail or other reliable means.

2 (b) **Failure to Waive.** If a defendant located within the United States fails,
3 without good cause, to sign and return a waiver requested by a plaintiff located
4 within the United States, the court must impose on the defendant:

5 (1) the expenses later incurred in making service; and

6 (2) the reasonable expenses, including attorney fees, of any motion
7 required to collect those service expenses.

8 (c) **Time to Answer After a Waiver.** A defendant who, before being served
9 with process, timely returns a waiver need not serve an answer to the complaint
10 until 60 days after the request was sent—or until 90 days after it was sent to the
11 defendant outside the United States.

12 (d) **Results of Filing a Waiver.** When the plaintiff files a waiver, proof of
13 service is not required and these rules apply as if a summons and complaint had
14 been served at the time of filing the waiver.

15 (e) **Jurisdiction and Venue Not Waived.** Waiving service of a summons
16 does not waive any objection to personal jurisdiction or to venue.

17
18 **ADVISORY COMMITTEE NOTE—2018 AMENDMENTS**

19 Rule 4(d) is new and is adopted from the federal rule. The waiver provisions
20 apply to individuals, entities, and associations, wherever served. It does not apply
21 to minors, incapacitated persons, or to state or government defendants. The waiver
22 forms are in the Appendix of Forms at the end of these rules; Form 1, the Request
23 to Waive Service, and Form 2, Waiver of Service of Summons. Parties should insert
24 their party information and caption into the forms; however, the text of the request

1 or waiver sent must be substantially similar to the text in Forms 1 and 2. A
2 defendant waiving service under this rule does not waive any other legal defense
3 but is granted a longer time to respond to the complaint.
4

5 **Rule 4.2. Service Within Nevada**

6 (a) **Serving an Individual.** Unless otherwise provided by these rules,
7 service may be made on an individual:

8 (1) by delivering a copy of the summons and complaint to the individual
9 personally;

10 (2) by leaving a copy of the summons and complaint at the individual's
11 dwelling or usual place of abode with a person of suitable age and discretion who
12 currently resides therein and is not an adverse party to the individual being served;
13 or

14 (3) by delivering a copy of the summons and complaint to an agent
15 authorized by appointment or by law to receive service of process.

16 (b) **Serving Minors and Incapacitated Persons.**

17 (1) **Minors.**

18 (A) Unless otherwise ordered, a minor must be served by
19 delivering a copy of the summons and complaint:

20 (i) if a guardian or similar fiduciary has been appointed for
21 the minor, to the fiduciary under Rule 4.2(a), (c), or (d), as appropriate for the type
22 of fiduciary;

23 (ii) if a fiduciary has not been appointed, to the minor's
24 parent under Rule 4.2(a); or

1 (iii) if neither a fiduciary or a parent can be found with
2 reasonable diligence:

3 (a) to an adult having the care or control of the minor
4 under Rule 4.2(a); or

5 (b) to a person of suitable age and discretion with
6 whom the minor resides.

7 (B) If the minor is 14 years of age or older, a copy of the summons
8 and complaint must also be delivered to the minor.

9 **(2) Incapacitated Persons.**

10 (A) Unless otherwise ordered, an incapacitated person must be
11 served by delivering a copy of the summons and complaint:

12 (i) if a guardian or similar fiduciary has been appointed for
13 the person, to the fiduciary under Rule 4.2(a), (c), or (d), as appropriate for the type
14 of fiduciary; or

15 (ii) if a fiduciary has not been appointed:

16 (a) to a person of suitable age and discretion with
17 whom the incapacitated person resides;

18 (b) if the incapacitated person is living in a facility, to
19 the facility under Rule 4.2(c); or

20 (c) to another person as provided by court order.

21 (B) A copy of the summons and complaint must also be delivered
22 to the incapacitated person; but for good cause shown, the court in which the action
23 is pending may dispense with delivery to the incapacitated person.

24 **(c) Serving Entities and Associations.**

1 **(1) Entities and Associations in Nevada.**

2 (A) An entity or association formed under the laws of this state,
3 registered to do business in this state, or that has appointed a registered agent in
4 this state, may be served by delivering a copy of the summons and complaint to:

5 (i) the entity's registered agent;

6 (ii) any officer or director of a corporation;

7 (iii) any partner of a general partnership;

8 (iv) any general partner of a limited partnership;

9 (v) any member of a member-managed limited-liability
10 company;

11 (vi) any manager of a manager-managed limited-liability
12 company;

13 (vii) any trustee of a business trust;

14 (viii) any officer or director of a miscellaneous organization
15 mentioned in NRS Chapter 81;

16 (ix) any managing or general agent of any entity; or

17 (x) any other agent authorized by appointment or by law to
18 receive service of process.

19 (B) If an agent is one authorized by statute and the statute so
20 requires, a copy of the summons and complaint must also be mailed to the
21 defendant entity or association at its last-known address.

22 **(2) Other Foreign Entities and Associations.** A foreign entity or
23 association that cannot be served under Rule 4.2(c)(1) may be served by delivering
24 a copy of the summons and complaint to an officer, director, partner, member,

1 manager, trustee, or agent identified in Rule 4.2(c)(1) that is located within this
2 state.

3 **(3) Service via the Nevada Secretary of State.**

4 (A) If, for any reason, service on an entity or association required
5 to appoint a registered agent in this state or to register to do business in this state
6 cannot be made under Rule 4.2(c)(1), then the plaintiff may seek leave of court to
7 serve the Nevada Secretary of State in the entity's or association's stead by filing
8 with the court an affidavit:

9 (i) setting forth the facts demonstrating the plaintiff's good
10 faith attempts to locate and serve the entity or association under Rule 4.2(c)(1) or
11 (2);

12 (ii) explaining the reasons why service on the entity or
13 association cannot be had in the method provided; and

14 (iii) stating the last-known address of the entity or
15 association or of any person listed in Rule 4.2(c)(1), if any.

16 (B) Upon court approval, service may be made by:

17 (i) delivering a copy of the summons and complaint to the
18 Nevada Secretary of State or his or her deputy; and

19 (ii) posting a copy of the summons and complaint in the
20 office of the clerk of the court in which such action is brought or pending.

21 (C) If the plaintiff is aware of the last-known address of any
22 person listed in Rule 4.2(c)(1), the plaintiff must also mail a copy of the summons
23 and complaint to each such person at the person's last-known address by registered
24 or certified mail. The court may also order additional notice to be sent under Rule

1 4.4(b) or (c) if the plaintiff is aware of other contact information of the entity or
2 association or of any person listed in Rule 4.2(c)(1).

3 (D) Unless otherwise ordered by the court, service under Rule
4 4.2(c)(3) may not be used as a substitute in place of serving, under Rule 4.3(a), an
5 entity or association through a person listed in Rule 4.2(c)(1) whose address is
6 known but who lives outside this state.

7 (E) The defendant entity or association must serve a responsive
8 pleading within 21 days after the later of:

9 (i) the date of service on the Nevada Secretary of State and
10 posting with the clerk of the court; or

11 (ii) the date of the first mailing of the summons and
12 complaint to the last-known address of any person listed in Rule 4.2(c)(1).

13 (d) **Serving the State, its Public Entities and Political Subdivisions,**
14 **and Their Officers and Employees.**

15 (1) **State of Nevada and Its Public Entities.** The State and any
16 public entity of the State must be served by delivering a copy of the summons and
17 complaint to:

18 (A) the Attorney General, or a person designated by the Attorney
19 General to receive service of process, at the Office of the Attorney General in
20 Carson City; and

21 (B) the person serving in the office of administrative head of the
22 named public entity or an agent designated by the administrative head to receive
23 service of process.

24

1 **(2) State Officers and Employees.** Any present or former public
2 officer or employee of the State who is sued in his or her official capacity or his or
3 her individual capacity for an act or omission relating to his or her public duties or
4 employment must be served by delivering a copy of the summons and complaint to:

5 (A) the Attorney General, or a person designated by the Attorney
6 General to receive service of process, at the Office of the Attorney General in
7 Carson City; and

8 (B) the public officer or employee or an agent designated by him
9 or her to receive service of process.

10 **(3) Political Subdivisions and Their Public Entities.** Any county,
11 city, town or other political subdivision of the State and any public entity of such a
12 political subdivision must be served by delivering a copy of the summons and
13 complaint to the presiding officer of the governing body of the political subdivision
14 or an agent designated by the presiding officer to receive service of process.

15 **(4) Local Officers and Employees.** Any present or former public
16 officer or employee of any county, city, town or other political subdivision of the
17 State or any public entity of such a political subdivision who is sued in his or her
18 official capacity or his or her individual capacity for an act or omission relating to
19 his or her public duties or employment must be served by delivering a copy of the
20 summons and complaint to the public officer or employee or an agent designated by
21 him or her to receive service of process.

22 **(5) Statutory Requirements.** A party suing the State, its public
23 entities or political subdivisions, or their officers and employees must also comply
24 with any statutory requirements for service of the summons and complaint.

1 (6) **Extending Time.** The court must allow a party a reasonable time
2 to cure its failure to:

3 (A) serve a person required to be served under Rule 4.2(d)(1) or
4 (2), if the party has served the Attorney General; or

5 (B) serve the Attorney General under Rule 4.2(d)(1) or (2), if the
6 party has served the required person.

7
8 **ADVISORY COMMITTEE NOTE—2018 AMENDMENTS**

9 Rule 4.2(a) adopts the federal language from FRCP 4(e)(2) and is a stylistic
10 revision of the existing NRCP 4(d)(6). The only addition to this rule is the language
11 in Rule 4.2(a)(2) specifying that if the summons and complaint is delivered to a
12 person of suitable age and discretion that resides with the individual being served,
13 the person cannot be an adverse party to the individual. This expressly prohibits,
14 for example, plaintiffs in divorce actions from serving process on themselves when
15 they still live with their spouses and thereafter claiming that service was validly
16 accomplished on those spouses.

17 Rule 4.2(b) is a restatement of the existing NRCP 4(d)(3) and (4) for service
18 on minors and incapacitated persons with substantive changes. These sections were
19 prepared with input from the Guardianship Commission. The 14-year age limit of
20 the prior rule was eliminated and a “minor” is now defined by NRS Chapter 129
21 (generally, under 18 years of age unless emancipated). In addition to serving the
22 person designated by Rule 4.2(b)(1)(A), a minor must also be personally served
23 under Rule 4.2(b)(1)(B) if the minor is 14 years of age or older.

1 Rule 4.2(b)(2) is similarly revised for incapacitated persons. Specific to
2 incapacitated persons, however, Rule 4.2(b)(2)(ii)(c) permits the court to craft a
3 service solution if no other listed option is available. Rule 4.2(b)(2)(B) also permits
4 the court to dispense with service on the incapacitated person for good cause. The
5 Committee intends service to be made on the incapacitated person if at all possible
6 unless completing service would place the process server in danger or would be
7 useless. For example, service might be excused if the incapacitated person has
8 confined himself in a house and has threatened to shoot anyone who approaches, or
9 if the incapacitated person is in a coma or vegetative state and cannot accept
10 service. No substantive difference is intended from the stylistic change in
11 terminology from “incompetent” to “incapacitated.”

12 Rule 4.2(c) has been reworded to encompass all business entities,
13 associations, and other organizations. Rule 4.2(c)(1)(A)(i)-(viii) is a restatement of
14 the first portion of the prior NRCP 4(d)(1). Rule 4.2(c)(1)(A)(ix) and (x), and Rule
15 4.2(c)(1)(B) were adopted from the federal rule. Rule 4.2(c)(1) does not reference
16 Rule 4.2(a); accordingly, any service upon an individual must be personal service.
17 Service upon an entity (for example a partner that is a LLC) should be made under
18 Rule 4.2(c). Rule 4.2(c)(2) is a restatement of the prior NRCP 4(d)(2). These rules
19 clarify that Rule 4.2(c)(1) applies to any Nevada entity or association and any
20 foreign entity or association that has registered to do business in Nevada or has
21 appointed a registered agent in Nevada. Rule 4.2(c)(2) applies to foreign entities or
22 associations generally.

23 Rule 4.2(c)(3) governs service on the Nevada Secretary of State when an
24 entity or association cannot otherwise be served. Rule 4.2(c)(3)(A) is the successor

1 to the second half of NRCP 4(d)(1), but has undergone substantive changes.
2 Initially, service may be made on the Nevada Secretary of State only when a
3 Nevada or foreign entity or association is required to appoint a registered agent in
4 Nevada or to register to do business in Nevada. Requirements for licensing,
5 appointing a registered agent, or similar registration requirements are found in
6 NRS Chapters 14 and 75-92A. If a Nevada or foreign entity or association is
7 required to appoint a registered agent in Nevada or to register to do business in
8 Nevada, then the Nevada Secretary of State will have contact information for the
9 entity or association and can send the summons and complaint to it. (The rule was
10 phrased as written because some entities or associations formed under Nevada law
11 are not required to register to do business or to appoint a registered agent.) If an
12 entity or association does not comply with Nevada law and fails to appoint a
13 registered agent or register to do business in Nevada, then service on the Nevada
14 Secretary of State is still valid—the entity or association bears the risk that the
15 Nevada Secretary of State will be unable to deliver the summons and complaint to
16 it. If an entity or association is not required to appoint a registered agent or
17 register to do business in Nevada, then the Nevada Secretary of State will have no
18 information about that entity or association and the Committee believes that
19 service upon the Nevada Secretary of State in that scenario does not meet the
20 requirements of due process. Service on the Nevada Secretary of State also now
21 requires court approval and incorporates new alternative notice provisions in Rule
22 4.4(b) or (c).

1 Rule 4(h) is new, replacing the prior NRCP 4(d)(5). Rule 4(h) provides
2 guidance on serving a wider variety of government entities and their officers and
3 employees.

4
5 **Rule 4.3. Service Outside Nevada**

6 (a) **Service Outside Nevada but Within the United States.**

7 (1) **Serving Individuals.** A party may serve process outside Nevada,
8 but within the United States, in the same manner as provided in Rules 4.2(a) for
9 serving such a defendant within Nevada.

10 (2) **Serving Minors and Incapacitated Persons.** A party may serve
11 process outside Nevada, but within the United States, in the same manner as
12 provided in Rule 4.2(b) for serving such a defendant within Nevada.

13 (3) **Serving Entities and Associations.**

14 (A) A party may serve process outside Nevada, but within the
15 United States, in the same manner as provided in Rules 4.2(c)(1) for serving such a
16 defendant within Nevada.

17 (B) If service on a foreign entity or association not required to
18 appoint a registered agent in Nevada or to register to do business in Nevada cannot
19 be made under Rule 4.2(c)(2) or 4.3(a)(3)(A), upon court approval service may be
20 made by serving the Secretary of State, or other designated entity, in the state or
21 territory under whose laws the entity or association was formed in the manner
22 prescribed by that state's or territory's law for serving a summons or like process on
23 such an entity or association, if that state's or territory's law provides for such
24 service.

1 **(4) Serving Another State or Territory.** Service upon another state
2 or territory, its public entities and political subdivisions, and their officers and
3 employees may be made in the manner prescribed by that state’s or territory’s law
4 for serving a summons or like process on such a defendant.

5 **(5) Serving the United States.** Service upon the United States and
6 its agencies, corporations, officers, or employees may be made as provided by Rule 4
7 of the Federal Rules of Civil Procedure.

8 **(6) Authorized Persons.** Service must be made by a person who is
9 authorized to serve process under the law of the state or territory where service is
10 made.

11 **(b) Service Outside the United States.**

12 **(1) Serving an Individual.** Unless otherwise provided by these rules,
13 an individual—other than a minor, an incapacitated person, or a person whose
14 waiver has been filed—may be served at a place outside of the United States:

15 (A) by any internationally agreed means of service that is
16 reasonably calculated to give notice, such as those authorized by the Hague
17 Convention on the Service Abroad of Judicial and Extrajudicial Documents;

18 (B) if there is no internationally agreed means, or if an
19 international agreement allows but does not specify other means, by a method that
20 is reasonably calculated to give notice:

21 (i) as prescribed by the foreign country’s law for service in
22 that country in an action in its courts of general jurisdiction;

23 (ii) as the foreign authority directs in response to a letter
24 rogatory or letter of request; or

1 (iii) unless prohibited by the foreign country’s law, by:

2 (a) delivering a copy of the summons and of the
3 complaint to the individual personally; or

4 (b) using any form of mail that the clerk addresses
5 and sends to the individual and that requires a signed receipt; or

6 (C) by other means not prohibited by international agreement, as
7 the court orders.

8 (2) **Serving a Minor or Incapacitated Person.** A minor or an
9 incapacitated person who is outside the United States must be served in the
10 manner prescribed by Rule 4.3(b)(1)(B)(i) or (ii), or Rule 4.3(b)(1)(C).

11 (3) **Serving Entities or Associations.** An entity or association that is
12 outside the United States may be served in any manner prescribed by Rule
13 4.3(b)(1) for serving an individual, except personal delivery under Rule
14 4.3(b)(1)(B)(iii)(a).

15 (4) **Serving a Foreign Country or Political Subdivision.** A foreign
16 country or a political subdivision, agency, or instrumentality thereof must be
17 served under 28 U.S.C. § 1608.

18
19 **ADVISORY COMMITTEE NOTE—2018 AMENDMENTS**

20 Rule 4.3(a) is expanded, governing service outside of Nevada but within the
21 United States. This rule replaced the prior NRCP 4(e)(2). Under Rules 4.3(a)(1), (2),
22 and (3)(A), service upon individuals, minors, incapacitated persons, entities, and
23 associations may be made in the same manner as in Rules 4.2(a), (b), and (c)(1) for
24 service upon those entities within Nevada. Service upon a foreign entity or

1 association may also be made under Rule 4.3(a)(3)(B). If a US state or territory in
2 which an entity or association is formed permits service on that jurisdiction's
3 Secretary of State, or similar service, the entity or association may be served in the
4 manner prescribed by that state or territory. Service upon another state or territory
5 or its subdivisions and entities and their officers and employees must be made
6 under that state's or territory's rules on serving its government entities. Service on
7 the United States must be made as provided in FRCP 4.

8 Rule 4.3(b) governs service outside of the United States. It was adopted from
9 FRCP 4(f), (g), (h), and (j).

11 **Rule 4.4. Alternative Service Methods.**

12 (a) **Statutory Service.** If a statute provides for service, the summons and
13 complaint may be served under the circumstances and in the manner prescribed by
14 the statute.

15 (b) **Court Ordered Service.**

16 (1) If service by one of the methods set forth in Rule 4.2, Rule 4.3(a)(1),
17 (2), or (3), or Rule 4.4(a) proves impracticable, then service may be accomplished in
18 such manner, prior to or instead of publication, as the court, upon motion and
19 without notice, may direct.

20 (2) Any alternative method of service must comport with due process.

21 (3) If the court orders alternative service, the plaintiff must:

22 (i) make reasonable efforts to provide notice using other methods
23 of notice under Rule 4.4(c); and
24

1 (ii) mail a copy of the summons and complaint, as well as any
2 order of the court authorizing the alternative service method, to the defendant's
3 last-known address.

4 (4) The plaintiff must provide proof of service under Rule 4(d) or as
5 otherwise directed by the court.

6 (5) Service by publication may be employed only under the
7 circumstances, and in accordance with the procedures, specified in Rule 4.4(d).

8 **(c) Other Methods of Notice.**

9 (1) The court may order a plaintiff to make reasonable efforts to provide
10 notice of the commencement of the action to a defendant using other methods of
11 notice whenever:

12 (a) the plaintiff must mail a copy of the summons and complaint
13 to the defendant's last-known address; or

14 (b) the court finds that, under the circumstances of the case, the
15 plaintiff should make reasonable efforts to provide such notice.

16 (2) Unless otherwise directed by the court, the plaintiff or the plaintiff's
17 attorney may contact the defendant to provide notice of the action, except when the
18 plaintiff or attorney would violate any statute, rule, temporary or extended
19 protective order, or injunction by communicating with the defendant.

20 (3) The plaintiff must provide proof of service under Rule 4(d) or as
21 otherwise directed by the court.

22 (4) Any restricted personal information required for a proof of service or
23 other court filings must be redacted as provided by the Rules Governing Sealing
24 and Redacting Court Records.

1 (d) **Service by Publication.**

2 (1) **Conditions for Publication.** If service cannot be made by the
3 methods of service set forth in Rules 4.2, 4.3, or 4.4(a) and (b), the plaintiff may
4 move the court for an order for service by publication when the defendant:

5 (A) cannot, after due diligence, be found; or

6 (B) by concealment seeks to avoid service of the summons and
7 complaint.

8 (2) **Motion Seeking Publication.** A motion seeking an order for
9 service by publication must:

10 (A) through pleadings or other evidence establish that:

11 (i) a cause of action exists against the defendant who is to
12 be served; and

13 (ii) the defendant is a necessary or proper party to the
14 action;

15 (B) provide affidavits, declarations, or other evidence setting
16 forth specific facts demonstrating that due diligence was undertaken to locate and
17 serve the defendant personally;

18 (C) provide the proposed language of the summons to be used in
19 the publication, briefly summarizing the claims asserted and the relief sought and
20 including any special statutory requirements; and

21 (D) suggest the newspaper(s) or other periodical(s) in which the
22 summons should be published that are reasonably calculated to give the defendant
23 actual notice of the proceedings.

24

1 **(3) Information Required When Defendant Cannot Be Found.** In
2 addition to the information set forth in Rule 4.4(d)(2), if publication is sought based
3 on the fact that the defendant cannot be found, the motion seeking an order for
4 service by publication must contain affidavits, declarations, or other evidence
5 establishing the following information:

6 (A) the defendant's last-known address;

7 (B) the dates during which the defendant resided at that location;

8 (C) confirmation that the defendant's last-known address is, to
9 the best of the plaintiff's knowledge, the last place that the defendant resided;

10 (D) confirmation that the defendant no longer resides at the last-
11 known address;

12 (E) confirmation that the plaintiff is unaware of any other
13 address at which the defendant has resided since that time, or at which the
14 defendant can be found; and

15 (F) specific facts demonstrating the efforts that the plaintiff has
16 made to locate the defendant.

17 **(4) Property.**

18 (A) In addition to the circumstances in Rule 4.4(d)(1) supporting
19 service by publication, the court may order service by publication as a substitute for
20 personal service of process in the actions listed in Rule 4.4(d)(4)(B) if a defendant:

21 (i) resides in the United States and has been absent from
22 this state for at least two years;

23 (ii) resides in a foreign country and has been absent from
24 the United States for at least six months;

1 (iii) is an unknown heir or devisee of a deceased person; or

2 (iv) is an unknown owner of real or personal property.

3 (B) This subsection applies only to the following actions involving
4 real or personal property located within Nevada:

5 (i) actions for the enforcement of mechanics' liens or other
6 liens against real or personal property;

7 (ii) actions for foreclosure of mortgages and deeds of trust;

8 (iii) actions for the establishment of title to real estate;

9 (iv) actions to exclude the defendant from any interest in
10 real or personal property; and

11 (v) any other action for the enforcement, establishment, or
12 determination of any right, claim, or demand, actual or contingent, to or against
13 any real or personal property.

14 (C) Service by publication on an unknown heir, devisee, or
15 property owner may only be used when the unknown heir, devisee, or property
16 owner must be a party to the action under Rule 19(b).

17 (D) A plaintiff proceeding under this subsection shall provide the
18 information required by Rule 4.4(d)(2) and (3), as applicable, and also provide
19 affidavits, declarations, or other evidence establishing the facts necessary to satisfy
20 the requirements of this subsection.

21 **(5) The Order for Service by Publication.**

22 (A) In the order for service by publication, the court shall direct
23 publication to be made in one or more newspaper(s) or other periodical(s) published
24 in the State of Nevada, in the state, territory, or foreign country where the

1 defendant is believed to be located, or in any combination of locations. The court's
2 designated locations must be reasonably calculated to give the defendant actual
3 notice of the proceedings. The service must be published at least once a week for a
4 period of four weeks.

5 (B) If publication is ordered and the plaintiff is aware of the
6 defendant's last-known address, the plaintiff must also mail a copy of the summons
7 and complaint to the defendant's last-known address. The court may also order
8 notice be sent under Rule 4.4(c).

9 (C) Service by publication shall be deemed complete at the later
10 of:

- 11 (i) four weeks from the date of the first publication; or
12 (ii) four weeks from the mailing of the summons and
13 complaint, if mailing is ordered.

14
15 **ADVISORY COMMITTEE NOTE—2018 AMENDMENTS**

16 Rule 4.4(a) is carried forward from the prior NRCP 4(e)(3), with stylistic
17 changes. Rule 4.4(b) is new, adopted from its counterpart in Rule 4.1(k) of the
18 Arizona Rules of Civil Procedure. This rule permits the court to fashion a method of
19 service that, in the court's judgment, will comport with due process. This rule is
20 intended to be used when no other service method is available and is meant to be
21 considered contemporaneously with publication, so that if any alternatives other
22 than publication exist, they can be pursued prior to publication.

23 Rule 4.4(c) is new. It permits a court to order the plaintiff to make reasonable
24 efforts to provide notice of the action to the defendant, regardless of the other

1 service methods that may be used. In this modern era of electronic communication,
2 a plaintiff may communicate with a defendant electronically, and thus know the
3 defendant's phone number, email address, or social media accounts, but be
4 unaware of the defendant's current physical address. In such a situation, a plaintiff
5 should not be permitted to send notice to the defendant's last-known address while
6 blithely ignoring other reliable means of contacting the defendant. The rule does
7 not specify any particular means of communication so that notice via non-
8 technological methods of communication or future technologies will also satisfy the
9 rule. This rule is intended to work in conjunction with publication, Rule 4.4(d), and
10 service on the secretary of state, Rule 4.2(c)(3), when those rules require the
11 summons and complaint to be sent to a defendant's last-known address. The notice
12 requirement in this rule does not constitute service by itself, unless the plaintiff's
13 provision of notice complies with another service method.

14 Rule 4.4(d), publication, is substantively altered from the existing NRC
15 4(e)(1). Service by publication may now be used when the defendant cannot be
16 found or where the defendant seeks to avoid service of the summons and complaint.
17 The prior NRC 4(e)(1) also provided for service by publication on a defendant that
18 resides outside this state, but, except for service by publication under Rule
19 4.4(d)(4), which concerns property within this state, service by publication on a
20 defendant that resides outside this state, merely because the defendant resides out
21 of state, likely does not comport with due process. Instead, an out-of-state
22 defendant should be served under Rules 4(i) or (j). However, if an out-of-state
23 defendant cannot be found or avoids service, then service by publication under this
24 rule is appropriate.

1 Rule 4.4(d)(2) governs the information provided to the court in a motion for
2 service by publication. The motion must include affidavits providing a detailed
3 explanation of the actions taken to attempt to serve the defendant. Rule 4(d)(4)
4 governs service by publication concerning real and personal property in this state.
5 Given the state's interest in resolving disputes concerning real or personal property
6 located within this state, service by publication may be used for a defendant who
7 has been absent from Nevada for the times specified when that party's presence is
8 necessary for the action to be adjudicated.

9 Rule 4.4(d)(5) governs the order for publication. When ordering publication,
10 the court must designate the locations for publication and order any other steps to
11 be taken to effect service that, in the court's opinion, are calculated to satisfy due
12 process. This may include locations outside of Nevada. The new rule adds "or other
13 periodical(s)" to the rule to permit the court to authorize the summons in a
14 periodical other than a newspaper, including an online periodical, if reasonably
15 calculated to give actual notice of the action to the defendant.